

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Justin Huang	Team: Squad #04	CCRB Case #: 202101815	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/20/2021 12:00 AM, Saturday, 03/20/2021 12:00 AM, Saturday, 03/20/2021 8:15 AM	Location of Incident: § 87(2)(b)	18 Mo. SOL 9/20/2022	Precinct: 52
Date/Time CV Reported Mon, 03/22/2021 10:21 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 03/22/2021 10:21 AM

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Edward Barrett	01849	956415	WARRSEC
2. Officers			
3. An officer			
4. DT3 Pablo Rodriguez	03939	947424	INT EPU
5. DT3 Felix Baez	04949	953654	WARRSEC
6. DT3 Michelle Almanzar	01740	956461	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT William Busch	01524	945537	WARRSEC
2. PO Omar Sosa	05729	960001	052 PCT
3. PO Carlos Polancodelacruz	26386	968714	052 PCT
4. SGT Joseph Pinero	00501	942912	PBBX YANKEE
5. SGT Julian Martinez	05096	950830	052 PCT
6. SGT Jordan Karras	04818	943426	050 PCT
7. SGT John Pirando	01343	943685	050 PCT
8. PO Joseph Diaz	25545	941005	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A . An officer	Discourtesy: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B . An officer	Abuse: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer threatened to damage § 87(2)(b) property.	§ 87(2)(b)
C . An officer	Abuse: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer threatened to arrest § 87(2)(b)	§ 87(2)(b)
D . DT3 Edward Barrett	Abuse: On March 20, 2021, Police Officer Edward Barrett entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
E . DT3 Edward Barrett	Abuse: On March 20, 2021, Police Officer Edward Barrett searched § 87(2)(b) in the Bronx.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F . DT3 Felix Baez	Abuse: On March 20, 2021, Detective Felix Baez searched § 87(2)(b) in the Bronx.	
G . DT3 Michelle Almanzar	Abuse: On March 20, 2021, Detective Michelle Almanzar searched § 87(2)(b) in the Bronx.	
H . DT3 Pablo Rodriguez	Abuse: On March 20, 2021, Detective Pablo Rodriguez searched § 87(2)(b) in the Bronx.	
I . An officer	Abuse: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer damaged § 87(2)(b) property.	
J . Officers	Abuse: On March 20, 2021, at the 52nd Precinct stationhouse, officers did not process § 87(2)(b) complaint regarding officers.	
K . Officers	Abuse: On March 20, 2021, at the 50th Precinct stationhouse, officers did not process § 87(2)(b) complaint regarding officers.	
L . Officers	Abuse: On March 20, 2021, at the 52nd Precinct stationhouse, officers did not process § 87(2)(b) complaint regarding officers.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On March 22nd, 2021, § 87(2)(b) filed this complaint with the CCRB over the phone. § 87(2)(b) filed this complaint on her own behalf and on behalf of her husband § 87(2)(b) and 13-year-old son § 87(2)(b).

On March 20th, 2021, at approximately 8:15AM, § 87(2)(b) and her husband, § 87(2)(b) left their apartment, located at § 87(2)(b) in the Bronx, to go to work. At the time, their 13-year-old son, § 87(2)(b) was alone in the apartment. Detectives Edward Barrett, Pablo Rodriguez, Felix Baez, Michelle Almanzar, and Sergeant William Busch of the Bronx Warrant Squad arrived and knocked on the front door. § 87(2)(b) heard one of the officers say, “Open the door. Open the MF’in door. I’m gonna break it down. We gonna arrest everyone in here” (**Allegation A: Discourtesy**, § 87(2)(g) **Allegation B: Abuse of Authority**, § 87(2)(g) **Allegation C: Abuse of Authority**, § 87(2)(g) § 87(2)(b) opened the door and Det. Barrett, Det. Rodriguez, Det. Almanzar, and Det. Baez all entered and searched the apartment (**Allegations D-H: Abuse of Authority**, § 87(2)(g) An officer ripped off the curtains in one of the bedrooms inside the apartment during the search (**Allegation I: Abuse of Authority**, § 87(2)(g) § 87(2)(g).

At an unknown time later that day, unidentified officers from the 50th and 52nd Precinct stationhouses refused to process § 87(2)(b) and § 87(2)(b) complaints against officers (**Allegations J, K, and L: Abuse of Authority**, § 87(2)(g) § 87(2)(g) § 87(4-b).

There were no arrests made or summons issued regarding this incident.

The CCRB did not obtain any body-worn-camera (BWC) footage regarding the incident (**BR01-02**), as all officers from the warrant squad stated that they are not equipped with BWC’s (**BR05-09**). The CCRB obtained security camera footage from § 87(2)(b) (**BR10**).

Findings and Recommendations

Allegation (A) Discourtesy: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)

Allegation (B) Abuse of Authority: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer threatened to damage § 87(2)(b) property.

Allegation (C) Abuse of Authority: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer threatened to arrest § 87(2)(b)

§ 87(2)(b) who was 13 years old at the time of the incident (**BR03**), stated that he was sleeping in his bedroom when he awoke to the sound of someone banging on the door. § 87(2)(b) left his bedroom and approached the front door, where he heard a male voice say, “Open up or else I’m gonna break in.” § 87(2)(b) called his dad, § 87(2)(b) who told him to open the door to see who it was. § 87(2)(b) phone battery died, and the call disconnected.

§ 87(2)(b) (**BR04**) stated that he received a FaceTime call from § 87(2)(b) who told him someone was banging on the door. § 87(2)(b) heard banging in the background followed by someone saying, “Open the door. Open the MF’in (likely “mother fucking”) door. I’m gonna break it down. We gonna arrest everyone in here.”

Det. Barrett, Det. Almanzar, Det. Baez, Det. Rodriguez, and Sgt. Busch (**BR05-09**) were present at

the incident location, and they all denied making these statements or hearing anyone else make these statements.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Detective Edward Barrett entered § 87(2)(b) in the Bronx.

Allegation (E) Abuse of Authority: Detective Edward Barrett searched § 87(2)(b) in the Bronx.

Allegation (F) Abuse of Authority: Detective Felix Baez searched § 87(2)(b) in the Bronx.

Allegation (G) Abuse of Authority: Detective Michelle Almanzar searched § 87(2)(b) in the Bronx.

Allegation (H) Abuse of Authority: Detective Pablo Rodriguez searched § 87(2)(b) in the Bronx.

It is undisputed that Det. Barrett, Det. Almanzar, Det. Rodriguez and Det. Baez entered and searched § 87(2)(b) and § 87(2)(b) apartment.

The CCRB obtained security camera footage from § 87(2)(b) (BR10). In the video which contains no audio, Det. Barrett, Det. Rodriguez, Det. Baez and Sgt. Busch are seen arriving in front of the apartment and knocking on the door. At 08:36, Sgt. Busch leaves via a side staircase while the other officers continue to knock on the door. At 08:37, the apartment door opens. Det. Baez, Det. Barrett, Det. Almanzar, and Det. Rodriguez walk inside. Det. Baez and Det. Barrett appear to say something to the person inside (presumably § 87(2)(b)).

§ 87(2)(b) who was 13-years-old at the time of the incident, was alone in the apartment. § 87(2)(b) (BR03) opened the front door after hearing someone knocking. Immediately after opening the door, Det. Barrett, Det. Almanzar, Det. Baez, and Det. Rodriguez entered the apartment, while § 87(2)(b) stepped back in surprise. All the officers stopped in the living room, where Det. Barrett asked where § 87(2)(b) was, referring to § 87(2)(b) older brother, § 87(2)(b). § 87(2)(b) replied that he had no idea where § 87(2)(b) was. § 87(2)(b) then noticed Det. Baez and Det. Rodriguez go into his bedroom.

§ 87(2)(b) (BR 04) stated that he was not present at the apartment during the incident. while he was on the phone with § 87(2)(b) he heard officers walking around and speaking with § 87(2)(b) but he could not remember what was being said because there were too many voices talking at once. § 87(2)(b) phone died, and § 87(2)(b) lost connection. § 87(2)(b) immediately took an Uber back to the apartment, where § 87(2)(b) told him that officers entered and searched the apartment and asked questions about § 87(2)(b).

§ 87(2)(b) (BR 11) was not aware of what had occurred until she went home in the afternoon.

Det. Barrett (BR05) stated that the Warrant Squad arrived at the apartment complex because an I-card was issued for § 87(2)(b) brother, § 87(2)(b) in connection with a shooting and criminal possession of a weapon. Det. Barrett and the other officers planned on searching the apartment, listed in the I-card as § 87(2)(b) primary address, and arrest § 87(2)(b) if he was

there. Upon approaching the apartment, he and the other officers announced themselves as NYPD and Warrant Squad while knocking on the door. A few minutes later, § 87(2)(b) opened the door. Det. Barrett described § 87(2)(b) as a teenage male individual but did not ask how old § 87(2)(b) was. Det. Barrett explained to § 87(2)(b) why the officers were there but did not recall what exactly he said. Det. Barrett did not remember if he asked for permission to enter. § 87(2)(b) then moved his body to the side. Det. Barrett took that action as consent to enter. Det. Barrett also believed that § 87(2)(b) gave verbal consent to enter the apartment. Once inside, Det. Barrett stayed with § 87(2)(b) and made small talk, mostly about video games, while the other officers conducted a brief search of the apartment. Det. Barrett may have walked around with § 87(2)(b) and looked into one of the rooms but did not know what room he looked into. After failing to find § 87(2)(b) Det. Barrett gave a business card to § 87(2)(b) and all officers then left the apartment.

Det. Barrett's memo book (**BR33**) notes that on March 20th, 2022, at 8:30AM, the Warrant Squad visited § 87(2)(b) in relation to an I-card for § 87(2)(b) for criminal possession of a weapon. Officers were invited inside by § 87(2)(b) brother § 87(2)(b). The warrant squad did not find § 87(2)(b) at the location, and Det. Barrett left his business card with § 87(2)(b) upon exit.

The CCRB ordered the DD5's and I-card related to § 87(2)(b). Results are pending and will be attached upon receipt.

Det. Almanzar (**BR06**) stated that Det. Barrett knocked on the door of the apartment. § 87(2)(b) came to the door and spoke with Det. Barrett, but Det. Almanzar did not remember what their conversation entailed. Det. Almanzar did not hear if § 87(2)(b) provided consent to enter. Det. Almanzar and the other officers stood behind Det. Barrett as they had the conversation at the door. Det. Barrett eventually went inside of the apartment, and Det. Almanzar and the other officers followed him inside. Det. Almanzar searched the living room and bedroom.

Det. Baez (**BR07**) also stated that Det. Barrett knocked on the door, and § 87(2)(b) opened the door. Det. Baez did not remember Det. Barrett's and § 87(2)(b) conversation. Det. Baez described § 87(2)(b) as a young, teenage male, standing approximately 5 feet 3 inches tall. Det. Baez did not know if Det. Barrett asked for permission to enter and did not know if § 87(2)(b) provided consent beyond opening the door to the officers. After Det. Barrett spoke to § 87(2)(b) Det. Barrett, Det. Almanzar, and Det. Baez entered the apartment. Det. Baez looked into the bedroom and living room but did not search anywhere else. Det. Baez did not touch anything. Det. Baez did not recall speaking to § 87(2)(b).

Det. Rodriguez (**BR08**) was standing in the back and did not hear the conversation between the officers and § 87(2)(b). Det. Rodriguez did not remember the layout of the apartment or what rooms he entered.

Sgt. Busch (**BR09**) left the apartment before the entry occurred and was not part of the entry and search of the apartment.

Video evidence shows and all parties corroborate that Sgt. Busch was not present when the entry and search occurred. Thus, these allegations were not pleaded against Sgt. Busch.

People v. White, 169 Misc. 2d 295 (BR31) states that a "warrantless search will not be justified merely upon a bald assertion by the consenting party that they possess the requisite authority. Nor may the police proceed without making some inquiry into the actual state of authority when they are faced with a situation which would cause a reasonable person to question the consenting party's

power or control over the premises or property to be inspected."

People v. Gonzalez, 88 N.Y.2d 289 (BR 33) states that an officer can enter a private residence without a warrant if provided voluntary consent. Whether this consent was given voluntarily or through overbearing official pressure can only be determined from the circumstances of the incident. Consent is valid when officers rely in good faith on the apparent ability of the consenting individual, when the circumstances reasonably indicate that the individual does have the authority to consent.

New York City Administrative Code § 14-173 (BR 34) states that for a search based solely on consent, officers must: (a)(1) – articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to the search, and explain that the search will not be conducted if the person refuses to consent to the search; and (b)(2) – document the time, location, and date of such search, and the apparent race/ethnicity, gender, and age of the person who was the subject of such search, and such officer's name, precinct, and shield number. (h)(1) In the event body worn cameras are not provided by the department to officers engaged in a patrol function, the department shall (i) develop and implement a procedure to obtain objective proof of voluntary, knowing, and intelligent consent to search by documenting the information communicated by an officer and the response of the person who is the subject of such search in writing and by offering such person to sign a statement confirming such consent, or by documenting such information through audio, through video and audio, or by other methods, excluding fingerprinting.

It is undisputed that Det. Barrett was the main officer at the door who interacted with § 87(2)(b) prior to the officers' entry. Thus, the entry was pleaded against Det. Barrett.

Det. Barrett stated that that he explained to § 87(2)(b) why the officers were there but did not recall exactly what he said. Det. Barrett did not remember if he asked for permission to enter, but § 87(2)(b) moved his body to the side and Det. Barrett took that action as consent to enter. Det. Barrett also stated that he believed § 87(2)(b) gave verbal consent to enter the apartment. At the time of the incident, § 87(2)(b) was 13-years-old and lived with his parents. Although none of the officers asked § 87(2)(b) for his age, both Det. Barrett and Det. Baez described § 87(2)(b) as a young/teenage individual.

§ 87(2)(g)

Allegation (I) Abuse of Authority: On March 20, 2021, at § 87(2)(b) in the Bronx, an officer damaged § 87(2)(b) property.

§ 87(2)(b) (BR03) stated that after the officers did not locate § 87(2)(b) in the apartment, Det. Barrett gave § 87(2)(b) a card and told him to call if he had any updates about § 87(2)(b) whereabouts. All the officers then left the apartment. § 87(2)(b) went to his bedroom, where he found that his curtains were broken off and on the floor. § 87(2)(b) did

not know which officers broke the curtains; however, he saw Det. Baez and Det. Rodriguez go into his bedroom prior to leaving.

Det. Baez and Det. Rodriguez (BR07-08) denied interacting with or damaging the curtains during their search of the apartment and did not see anyone doing so.

§ 87(2)(g)

Allegation (J) Abuse of Authority: On March 20, 2021, at the 52nd Precinct stationhouse, officers did not process § 87(2)(b) complaint regarding officers.

Allegation (K) Abuse of Authority: On March 20, 2021, at the 50th Precinct stationhouse, officers did not process § 87(2)(b) complaint regarding officers.

Allegation (L) Abuse of Authority: On March 20, 2021, at the 52nd Precinct stationhouse, officers did not process § 87(2)(b) complaint regarding officers.

§ 87(2)(b) (BR03) stated that sometime in the evening, he and § 87(2)(b) went to the stationhouse, where § 87(2)(b) complained that officers went into her apartment without a search warrant. An officer who § 87(2)(b) was complaining to told her that he could not do anything. § 87(2)(b) and § 87(2)(b) then left § 87(2)(b) described the officer as a Hispanic male officer with a beard.

§ 87(2)(b) (BR04) stated that sometime after the incident, he and § 87(2)(b) went to the 52nd Precinct Stationhouse, which was noted on Det. Barrett's business card, to file a complaint about the incident. § 87(2)(b) spoke to "some" officers, who "didn't give any help," and told him that the involved officer was at the 50th Precinct. § 87(2)(b) and § 87(2)(b) then went to the 50th Precinct Stationhouse, where they were told that the officer they were referring to only worked at night, so they would need to come back at night. § 87(2)(b) and § 87(2)(b) left the 50th Precinct stationhouse and did not return. § 87(2)(b) could not provide a description for the officers he spoke with.

§ 87(2)(b) (BR11) stated that sometime in the evening, she and § 87(2)(b) went to the 52nd Precinct station house to find out what happened. She spoke with three officers, none of whom had any idea what had occurred at their apartment. § 87(2)(b) left her phone number at the front desk for a call back with any information about what happened and left the stationhouse.

The CCRB interviewed the desk sergeants and telephone switchboard operators working between 8:00AM on March 20th, 2021 and 12:00AM on March 21st, 2021: Sergeant Julian Martinez, Sergeant Joseph Pinero, Police Officers Carlos Polancodelacruz and Omar Sosa (of the 52nd precinct) and Sergeants Jordan Karras, John Pirando, and Police Officer Joseph Diaz (of the 50th precinct). None of the officers recalled speaking with any civilians who wanted to file complaints against police officers on the day of the incident (BR12-18).

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- The is the first complaint to which § 87(2)(b) has been a party (**BR21**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR22**).
- Det. Barrett has been a member of service for 7 years and has been a party to 10 CCRB complaints and 28 allegations, none of which were substantiated. § 87(2)(g)
- Det. Baez has been a member of service for 9 years and has been a party to 7 CCRB complaints and 21 allegations, of which 4 were substantiated (**BR24**):
 - Case # 201607176 involved a substantiated allegation of a stop against Det. Baez. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
 - Case #201606760 involved substantiated allegations of a frisk, retaliatory arrest, and a discourteous statement against Det. Baez. The Board recommended Command Discipline A and the NYPD imposed no penalty. § 87(2)(g)
- Det. Almanzar has been a member of service for 7 years and has been a party to 5 CCRB complaints and 10 allegations, none of which were substantiated. § 87(2)(g)
- Det. Rodriguez has been a member of service for 13 years and has been a party to two CCRB complaints and 2 allegations, neither of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On June 30th, 2022, a FOIL request was submitted to the Office of the Comptroller. Results will be attached upon receipt (**BR27**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 4

Investigator: Justin Huang Investigator Huang 07/01/2022
Signature Print Title & Name Date

Squad Leader: Raquel Velasquez IM Raquel Velasquez 07/01/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date